

**Comments of Michigan EIBC re REC Bundling Requirements**  
**Case No. U-21568**

In its August 6, 2026 order in these proceedings, the Michigan Public Service Commission (“MPSC” or “Commission”) responded to a Petition for Declaratory Ruling filed by Energy Michigan (“Energy MI Petition”) and a Petition for Declaratory Ruling filed by Billerud Americas Corporation (“Billerud Petition”) by denying those requests and instead opening a comment period in Docket No. U-21568 allowing parties to submit comments and reply comments on a series of six questions set forth in that Order (“August 6 Order”). The Michigan Energy Innovation Business Council (“Michigan EIBC”) thanks the Commission for the opportunity to provide comments on these issues of importance to Michigan EIBC’s members. Members of Michigan EIBC participate in the Renewable Energy Credit market in Michigan and so have an interest in how the questions posed by the Commission in its Order will be answered, as the answers the Commission ultimately gives them will affect the eligibility of particular RECs to be used for compliance purposes under Public Act 235 of 2023 (“Act 235”) and will therefore affect the economic value of those RECs. Michigan EIBC provides the following responses to the Commission’s questions.

- 1) Should the reference to “renewable energy and capacity” in MCL 460.1028(5)(b) be interpreted to mean “both renewable energy and capacity as well as the associated REC” or “renewable energy credits and associated capacity,” such that the purchase of the underlying energy commodity is not a prerequisite for a REC to qualify as “bundled” under the statute?

Michigan EIBC believes that the practical way to interpret the reference to “renewable energy and capacity” in MCL 360.1028(5)(b) is to understand that the “renewable energy” referred to there is that which is represented by the corresponding REC. Put another way, the REC is merely a tradeable commodity representing the renewable energy itself. Requiring designated renewable energy to be paired with a REC has the potential to be duplicative. It is clear from the definition of “renewable energy credit” under section 41 of Act 235, which defines a REC as “a credit granted under a certification and tracking program established under section 41, which represents generated renewable energy,” that the REC itself is a stand-in for the renewable energy. MCL 460.1011(c) (emphasis added). Treating the REC as the renewable energy itself makes sense when one considers that once energy is separated from the renewable character represented by the REC, then it is simply energy and indistinguishable from that generated by fossil-fuel-fired generation. Thus, because the REC already represents generated energy, to require an additional pairing of energy of some sort with the REC could result in either double counting or the pairing of non-renewable energy with a REC in order for it to be considered eligible. The Commission should avoid the potential for such muddying and confusion of the concept of a REC and treat the reference to “energy” in 1028(5)(b) to refer to the REC itself.

- 2) If MCL 460.1028(5)(b) is interpreted to require renewable capacity and RECs without the associated energy, should the RECs be limited to the pro-rata share of capacity from a particular renewable energy system?
  - a. If so, how should this be calculated?
  - b. If not, why not?

As discussed more fully below under Question 4, Michigan EIBC believes that no capacity purchase should be imposed on in-state RECs to make them compliant with Act 235's requirements. If in-state RECs are presumed to be bundled, then this problem is resolved for in-state generators. Out-of-state generators still face having to couple RECs with capacity, pursuant to MCL 460.1029(1)(b). There are inherent problems with doing this, as RECs measure generated energy and are not directly related to capacity. However, as noted under Question 6, Michigan EIBC expresses no view at this time on how capacity should be coupled with out-of-state RECs to satisfy the bundling requirement in Section 1029(1)(b).

- 3) Should the phrase "or otherwise acquiring" in MCL 460.1028(5)(b) be interpreted to allow a load-serving entity to satisfy the capacity and energy components of the bundling requirement under a presumption that in-state renewable generation reduces the load that the load-serving entity must otherwise serve?
  - a. If this presumption is true, in what situation would the 5% limitations within MCL 460.1028(5)(c) take effect?

In the event that a direct or indirect capacity benefit is being provided to the local grid (as discussed above) in a manner that does not involve an actual purchase of that capacity, then the statutory language here provides the Commission with the flexibility to recognize these benefits, which may be derived indirectly or by means other than "purchase." This seems the most logical and obvious understanding of the presence of this phrase in 1028(5)(b). An example of this in practice is that provided in the Billerud Petition's discussion of the relevant terms in the recent settlement in case U-21809/21811, where Upper Peninsula Power Company's acquisition of capacity and energy benefits from a customer's behind-the-meter ("BTM") generator is cited as the basis for the RECs being compliant with Section 1028(5)(b).

This understanding is further supported by the text of MCL 460.1029(1)(a) & (b). If an electric provider is required under MCL 460.1028(5)(b) to separately purchase the capacity of a renewable energy system that is located within the State of Michigan in order to obtain compliant RECs, then the distinction between MCL 460.1029(1) (a) and (b) collapses. Section 1029(1)(a) allows for compliant RECs to be located "anywhere in this state" without further requirement, while (1)(b) requires that capacity be included with the REC for systems located outside of this state. Requiring capacity for both situations makes Section 1029(1) meaningless.

The 5% limitation would take effect in situations where capacity is plainly required under the statute to be "bundled" with the RECs. For instance, where out-of-state RECs are used to meet renewable obligations without a concomitant purchase of capacity, the 5% limitation would apply.

Although MCL 460.1029(1)(b) on its face requires *all* out-of-state RECs to be bundled with capacity, MCL 460.1028(5)(c) explicitly permits up to 5% of such RECs to be unbundled, providing, “Renewable energy credits acquired under this subdivision are not subject to the requirements of section 29.”

- 4) Should BTM in-state generation be presumed to provide capacity and energy benefits to that customer’s electric provider, the local grid, and the applicable RTO zone so that RECs generated BTM by facilities located within the state of Michigan are presumed to satisfy any bundling requirement under MCL 460.1028(5) and MCL 460.1029(1)?
  - a. Why (or why not) would this situation be different than the situation contemplated in question 3?

Michigan EIBC notes that the second question presented in Energy Michigan’s Petition is broader than the formulation in question 4 above. Energy Michigan’s Petition asked about “RECs generated by facilities located within the State of Michigan” and not exclusively BTM facilities. Question 4 appears to limit the applicability of a presumption of bundling for in-state RECs to BTM generators. Michigan EIBC agrees with Energy Michigan’s apparent point that the impacts of a capacity bundling requirement for in-state generation in front of the meter (“FTM”) could be unnecessarily adverse as well. FTM renewable generation projects, including merchant generation such as PURPA projects and non-PURPA distribution-connected FTM resources, provide the same local grid benefits discussed above, and the same logic applies as to why the RECs they produce should be presumed to be “bundled” for purposes of MCL 460.1028.

There is a significant policy consideration in removing the benefits of a healthy REC sales market from the value stream for merchant or non-BTM projects that is counter-productive to the goals of both state and federal law, which encourage such renewable projects. See Public Utility Regulatory Policies Act of 1978 (“PURPA”); MCL 460.6v; MCL 460.10e. Therefore, Michigan EIBC believes that the issues addressed by this fourth question should be seen as applicable to both BTM generation and FTM generators that are interconnected to the grid and selling capacity and energy as well as generating RECs.

Requiring RECs generated by existing or new PURPA facilities to be sold bundled with energy and capacity would run counter to the Commission’s previous determination in U-20095, where the Commission noted that it agreed “with previous FERC decisions and the consensus by the commenters that the RECs associated with a QF’s renewable generation are not automatically included in a PURPA contract, however, they can be separately contracted for as a means to achieve RPA compliance under Public Act 295 of 2008, as amended by Act 342.” Because the result of this was to not include RECs in the PURPA contracts of Qualifying Facilities (“QFs”), such RECs have been available to these mostly small generators as an additional source of revenue after sale of energy and capacity. Treating these RECs as unbundled would cause them to lose significant value, as the use of unbundled RECs is severely curtailed by Section 1028(5)(c). Furthermore, many existing QFs have long-term contracts that do not include the RECs, and these

have been sold separately. The interpretation suggested above protects these arrangements and provides continuing economic stability for the operations of these resources.

A policy goal of Act 235 is to “[p]rovide greater energy security through the use of indigenous energy resources available within this state.” MCL 460.1001(2). However, the goal of using indigenous energy resources available within Michigan is not served by a policy that unnecessarily raises barriers to such generation’s selling its RECs in the market. That would simply risk making such generators less economically viable. The benefits of such Michigan-based generation are various but include environmental and public health benefits of moving toward broader renewable generation, increased local grid support from renewable capacity, and availability of renewable energy to Michigan’s homes and businesses. These goals are all achieved by recognizing that Michigan-based renewable generation inherently (or presumptively) provides capacity benefits to the local grid, reduces the load required to be served by the load-serving entity, and often provides support to the MISO zone.

For BTM generators, who as Billerud discussed in their Petition, are providing load reduction services either formally or informally to their supplier, treating the generated RECs as unbundled again removes much or all of the economic benefit from this potential value stream and so reduces the economic viability of such projects.

Michigan EIBC believes that such outcomes would be inconsistent with the goals of PA 235 and encourages the Commission to find that when renewable generation is located in Michigan, the RECs it produces are presumptively “bundled.”

The Commission has asked how this issue is separate from that addressed under question 3. Question 3 seeks comment on how to apply the “or otherwise acquired” language. The understanding of that language discussed above would facilitate the treatment of in-state generated RECs as bundled but does not provide the sole basis for that. The full rationale, as Michigan EIBC understands it, for treating in-state generated RECs as “bundled” is provided in the comments above under question 4.

- 5) MCL 460.1029(1)(b) makes no mention of energy, only capacity and RECs. Should out-of-state resources be treated differently from in-state resources with respect to the provisions in MCL 460.1028(5)?

There is plainly a differentiation being made in MCL 460.1029(1) between in- and out-of-state resources. The only difference in statutory language is the presence of “capacity” with out-of-state resources. To require a showing of capacity for in-state resources would be to erase this difference in treatment between in- and out-of-state resources, contrary to the plain language of the statute. Michigan EIBC recommends that all it takes to maintain the distinction the statute makes between in- and out-of-state RECs is, for out-of-state resources, to remove the presumption in favor of capacity benefits to the local grid that Michigan EIBC believes should be applied to in-state

resources, and to require out-of-state RECs used for compliance to be bundled with capacity (with the exception of the 5% permitted to be unbundled under MCL 460.1028(5)(c)).

- 6) If MCL 460.1029(1)(b) is intended to apply only to capacity and RECs without the associated energy, should it be interpreted such that the RECs and capacity acquired out-of-state must both be acquired from the same facility?

Michigan EIBC expresses no opinion on this issue.